

Personal Property Tax Relief Act

Compliance Program

Guidelines



Department of Taxation

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OVERVIEW.....	3
TAXPAYER EDUCATION	5
PLAIN ENGLISH	5
STATE AND LOCAL WEBSITES FOR EDUCATING VEHICLE OWNERS	8
ADDITIONAL OPPORTUNITIES FOR EDUCATING VEHICLE OWNERS	9
CERTIFICATION.....	9
DMV REQUIREMENTS	9
LOCAL REQUIREMENTS.....	9
ANNUAL RE-CERTIFICATION	10
SUGGESTED CERTIFICATION LANGUAGE	10
COMPLIANCE MEASURES - LOCAL RESPONSIBILITIES	11
LOCAL AUDITS	11
DEPARTMENT OF TAXATION DATA	11
CREATING A LOCAL COMPLIANCE ASSURANCE MEASURES PROGRAM	12
OBJECTIVES	13
DETAIL TESTS.....	16
SAMPLING	18
EFFICIENCY AND EFFECTIVENESS	19
REQUIRED LOCAL REPORTING TO STATE AGENCIES	20
COMPLIANCE MEASURES – DEPARTMENT OF TAXATION AUDITS.....	21
“SUBSTANTIALLY NONCOMPLIANT”	21
ADMINISTRATIVE APPEALS	22
DEPARTMENT OF TAXATION AUDIT PROCEDURES	22
PROCEDURES FOR STATE COMPTROLLER WITHHOLDING FUTURE PPTRA PAYMENTS TO LOCALITIES RESULTING FROM SUBSTANTIALLY NONCOMPLIANT AUDIT FINDINGS	23
APPENDIX A FEDERAL FORMS.....	24
APPENDIX B 2002 ACTS OF ASSEMBLY	27
APPENDIX C SAMPLE AUDIT REPORT.....	31

OVERVIEW

This document provides local officials guidelines to be used for the implementation of the Personal Property Tax Relief Act (PPTRA) Compliance Program. The guidelines provide information concerning:

- Measures to inform taxpayers of limitations upon qualifications for relief under PPTRA
- Processes for certification by vehicle owners of vehicle use
- Compliance measures to be implemented by local assessing officials
- Compliance measures to be implemented by the Department of Taxation.

The 1998 General Assembly enacted the Personal Property Tax Relief Act, which provides relief from personal property taxes otherwise payable on the first \$20,000 of value for qualifying vehicles.

Code of Virginia § 58.1-3523 states that vehicles qualifying for property tax relief may include “any passenger car, motorcycle and pickup or panel truck that is determined by the Commissioner of the Revenue of the county or city in which the vehicle has situs to be (i) privately owned or (ii) leased pursuant to a contract requiring the lessee to pay the tangible personal property tax on such vehicle.”¹

Using the definitions as set forth in the Code of Virginia § 46.2-100, “passenger car” means every motor vehicle designed and used primarily for the transportation of no more than ten persons, “pickup or panel truck” means every motor vehicle designed for transportation of property having a registered gross weight under 7,501 pounds, and “motorcycle” means every motor vehicle designed to travel on not more than three wheels.²

The 2002 General Assembly enacted HB 29 requiring the Tax Commissioner to establish a Personal Property Tax Relief Compliance Task Force composed of representatives of the Department of Motor Vehicles, the Department of Accounts, the Auditor of Public Accounts, local governments, local Treasurers, Commissioners of the Revenue, and Directors of Finance. The Task Force recommended to the Tax Commissioner a program designed to increase taxpayer compliance with the Personal Property Tax Relief Act.

¹ Personal Property Tax Relief Guidelines for Direct Compensation Years, Virginia Department of Motor Vehicles (September 2001), p.2.

² Personal Property Tax Relief Guidelines for Direct Compensation Years, Virginia Department of Motor Vehicles (September 2001), p.2.

The 2002 General Assembly also enacted HB 30, which requires the Department of Taxation to develop and implement, not later than January 1, 2003, a comprehensive Personal Property Tax Relief Act Compliance Program. The objectives of the program are: 1) to enhance taxpayer knowledge and compliance with PPTRA, and 2) establish cost-effective verification and audit procedures. HB 30 authorizes the Tax Commissioner to promulgate administrative guidelines to implement the PPTRA Compliance Program.

TAXPAYER EDUCATION

Plain English

Under HB 30, the Compliance Program requires motor vehicle owners to be informed in plain English of the limitations upon qualification for relief under PPTRA at the time of:

- Vehicle titling
- Vehicle renewal registration
- Local motor vehicle licensing
- Personal property tax assessment
- Personal property tax billing.

The following plain language explanations are suggested for informing vehicle owners of the limitations upon qualification for relief. They should be used in conjunction with each other.

What is the Personal Property Tax Relief Act?

The Personal Property Tax Relief Act of 1998 provides tax relief for passenger cars, motorcycles, and pickup or panel trucks having a registered gross weight of less than 7,501 pounds. To qualify, a vehicle must

- be owned by an individual or leased by an individual under a contract requiring the individual to pay the personal property tax;

AND,

- be used 50% or less for business purposes.

Motor homes, trailers and farm use vehicles do not qualify for tax relief.

Does your vehicle qualify for Car Tax Relief?

If you can answer YES to any of the following questions, your motor vehicle is considered by State Law to have a business use and does **NOT** qualify for Car Tax Relief.

- Is more than 50% of the mileage for the year used as a business expense for Federal Income Tax purposes **OR** reimbursed by an employer?
- Is more than 50% of the depreciation associated with the vehicle deducted as a business expense for Federal Income Tax purposes?
- Is the cost of the vehicle expensed pursuant to Section 179 of the Internal Revenue Service Code?
- Is the vehicle leased by an individual and the leasing company pays the tax without reimbursement from the individual?

For localities with a large Hispanic population, the following translation in Spanish is provided:

¿Que es la Ley de Reducción de Impuestos de Propiedad Personal?

La Ley de Reducción de Impuestos de Propiedad Personal de 1998 ayuda a reducir los impuestos de vehículos para uso personal tales como automobiles, motocicletas, camionetas, y camiones que tengan registrado un peso groso menor de 7.501 libras. Para calificar, el vehículo debe:

- Estar registrado a nombre de un individuo (no un comercio) ó estar rentado por un individuo bajo un contrato que requiera que el individuo pague el impuesto de propiedad personal.

Y

- Ser usado menos de 50% para uso comercial.

Casas rodantes, traileres, y vehículos usados para cultivos no califican para la reducción de impuesto.

¿Califica su vehículo para reducción de impuesto?

Si usted puede responder SI a cualquiera de las siguientes preguntas, la ley del estado considera que su vehículo tiene uso comercial y NO califica para reducción de impuestos de vehículo.

- ¿Declara mas del 50% del millage usado en el año como gasto de negocio en su declaración de impuestos de ingresos federales ó su empleador le ha reembolsado el millage?
- ¿Ha reducido mas del 50% de la depreciación asociada con el vehículo como gasto de negocio en la declaración de ingresos federales?
- ¿Ha restado el costo de su vehículo de acuerdo con la Sección 179 del Código del Servicio Interno de Impuestos (IRS)?
- ¿Está el vehiculo siendo rentado por un individuo y la compañía de renta paga el impuesto sin ser recompensados por el individuo?

Asegurese de marcar el cuadro adecuado en el formulario para renovación de la registración de su auto. Si no marca un cuadro, puede que su vehículo no sea elegible para reducción de impuestos de propiedad personal.

State and Local Websites for educating vehicle owners

Websites provide the opportunity for more detailed information in plain English. The following language is suggested for informing vehicle owners of the limitations upon qualification for relief. Localities are urged to include this language on their websites, either by full restatement or through a link to the state web page that will include this language.

The Personal Property Tax Relief Act of 1998 provides tax relief for any passenger car, motorcycle, or pickup or panel truck having a registered gross weight of less than 7,501 pounds. The vehicle must be owned or leased by an individual and NOT used for business purposes. A vehicle is considered to be used for business purposes if:

- More than 50% of the mileage for the year is used as a business expense for Federal Income Tax purposes **OR** reimbursed by an employer;
- More than 50% of the depreciation associated with the vehicle is deducted as a business expense for Federal Income Tax;
- The cost of the vehicle is expensed pursuant to Section 179 of the Internal Revenue Service Code; or
- The vehicle is leased by an individual and the leasing company pays the tax without reimbursement from the individual.

Vehicles qualified for tax relief are noted on your tax bill and show a reduction for the portion of the tax the Commonwealth will pay. For qualified vehicles, your tax bill is reduced by the applicable tax relief percentage for the tax year on the first \$20,000 of value. The (*locality*) will be reimbursed by the Commonwealth for the amount of the reduction once you have paid the balance due shown on your bill. If your qualifying vehicle's assessed value is \$1,000 or less, your tax has been eliminated and the Commonwealth's share is 100%. Tax relief is calculated using the (*locality*)'s effective tax rate in effect on August 1, 1997.

You are required to certify annually to the (*locality*) that your vehicle remains qualified to receive car tax relief. Therefore, it is important that you review the information sent to you by your locality to be sure that your vehicles are properly qualified. This information may be included on items such as personal property tax returns, decal applications or tax bills. If your vehicle is improperly qualified or you are uncertain whether your vehicle would be eligible for car tax relief because it is used part of the time for business purposes, contact the (*locality*) at (*phone number*). When you display your (*locality*) decal and pay your taxes on qualified vehicles, you are certifying to the (*locality*) that your vehicle has been qualified correctly.

Additional opportunities for educating vehicle owners :

- Point of sale at dealer and/or leasing companies
- Public Service announcements on local cable channels
- “New to VA” brochures available at DMV
- Local government “questions and answers” brochures
- Virginia Society of Certified Public Accountants (VSCPA)
- “Dealer Talk” newsletter issued by the Motor Vehicle Dealer Board

CERTIFICATION

DMV Requirements

Beginning January 1, 2003, vehicle owners are required to certify the use of the vehicle to be either personal or business. The certification will be part of each application for initial and renewal vehicle registration at DMV. Certification information collected by DMV shall be made available to Commissioners of the Revenue and other local assessing officials for use in discharging their responsibilities for qualifying vehicles for relief under PPTRA.

Local Requirements

As part of the Compliance Program, Commissioners of the Revenue, Treasurers and other local officials having assessment or collection responsibilities shall implement provisions for certification by the vehicle owners as to vehicle use for business purposes. The certification is required for any vehicle with a value in excess of \$1,000.

- In jurisdictions where an affirmative personal property tax return is required of the taxpayer, certification shall be obtained when personal property returns are filed. In cases where this method fails to obtain the requisite taxpayer certification, taxpayer certification may be obtained at the time of any **one** of the following:
 1. Application for or issuance of a decal or local license plate. This can be at the time of the initial application or renewal of the local vehicle license pursuant to § 46.2-752, Code of Virginia.
 2. Payment of personal property tax bill where payment can be construed as a certification of vehicle use.

3. Any other communication with the vehicle owner requiring an affirmative response or responsive action on the part of the owner.
- In jurisdictions where a File By Exception method is used for personal property tax returns, certification shall be obtained at the time of the following:
 1. The File by Exception process in which citizens shall be required to notify the locality of any changes in vehicle use on an exception basis, **and either**
 2. Payment of personal property tax bill where payment can be construed as a certification of vehicle use, **or**
 3. Application for or issuance of a decal or local license plate. This can be at the time of initial application or renewal of the local vehicle license pursuant to § 46.2-752, Code of Virginia.

Annual Re-certification

Commissioners of the Revenue, Treasurers and other local officials having assessment or collections responsibilities, are required to obtain recertification of vehicle use on an annual basis.

Suggested Certification Language

The following certification language may be used for personal property returns and local decal applications:

“This vehicle is for Personal Use Business Use.
See (reverse*) for business use criteria.”

* or reference other location where criteria is printed.

The business use criteria language is located on page 6 of the Guidelines.

The following certification language may be used for **payment** of personal property bill:

“I certify that by paying this bill, Personal Property Tax Relief is given only to personal use vehicle(s).”

For multi-vehicle forms:

"I certify that unless otherwise indicated as business use, the vehicles listed herein are for personal use."

The vehicle listing should have a place to denote business use for each vehicle on the form.

For a File by Exception Locality:

This form must be returned no later than (*locality date*) if there are changes to the previously reported vehicle use indicated.

COMPLIANCE MEASURES - LOCAL RESPONSIBILITIES

Local Audits

Beginning January 1, 2003, each Commissioner of the Revenue or other local assessing official responsible for making determinations regarding qualification of vehicles for PPTRA, shall develop, implement and document a compliance assurance measures program. The program should be designed to identify and to audit likely cases of PPTRA relief erroneously granted for nonqualifying vehicles. The compliance assurance measures program is essentially an internal audit program that must be incorporated as a regular component of PPTRA administration, the results of which must be reported annually to the Department of Taxation.

Department of Taxation Data

The Department of Taxation shall provide guidance and assistance to the commissioners of the revenue or other local assessing officials. The Department will do this by capturing and consolidating information obtained through income tax returns.

Beginning January 1, 2003, the Department will require a copy of the Federal Schedule C, C-EZ, F, 2106 and 4562 to be attached to Virginia 760 income tax paper return. These schedules will be forwarded to the localities. The Department of Taxation will also capture additional data from vendor tax forms and electronically filed returns. The Department will make the following information available to the localities electronically:

- Schedule C – line 10 “Car and truck expenses”

- Schedule C – line 13 “Depreciation and Section 179 expense deduction”
- Schedule C – line 44 “Number of miles you used your vehicle for:”
- Schedule C – line 44a “Business”
- Schedule C – line 44b “Commuting”
- Schedule C – line 44c “Other”
- Schedule C-EZ – line 5 “Number of miles you used your vehicle for:”
- Schedule C-EZ – line 5a “Business”
- Schedule C-EZ – line 5b “Commuting”
- Schedule C-EZ – line 5c “Other”
- Schedule F – line 12 “Car and truck expenses”
- Schedule F – line 16 “Depreciation and section 179 expense”
- Schedule 2106 – line 14 “Percent of business use”
- Schedule 2106 -line 14a “Vehicle 1”
- Schedule 2106 - line 14b “Vehicle 2”
- Schedule 2106-EZ – line 8 “Number of miles you used your vehicle for:”
- Schedule 2106-EZ – line 8a “Business”
- Schedule 2106-EZ – line 8b “Commuting”
- Schedule 2106-EZ – line 8c “Other”
- Schedule 4562 – line 26 “Property used more than 50% in a qualified business”
- Schedule 4562 – line 26a “Type of property”
- Schedule 4562 – line 26b “Date placed in service”
- Schedule 4562 – line 26c “Business/investment use percentage”
- Schedule 4562 – line 26d “Cost or other basis”
- Schedule 4562 – line 26h “Depreciation deduction”
- Schedule 4562 – line 26i “Elected Section 179 cost”

To further assist the localities, the Department of Taxation will perform data matches with the Department of Motor Vehicles. The data matches will identify vehicles owned by individuals claiming a business deduction on Virginia Income Tax Returns. This information will be provided to the Commissioner of the Revenue or the assessing official of the locality for further investigation.

In developing local compliance assurance measures, the Commissioner of the Revenue or other responsible local official must utilize locally available information in a cost-effective manner. For example, information relating to business licensing that may identify potential recipients of PPTRA relief with respect to nonqualifying vehicles should be reviewed.

Creating a Local Compliance Assurance Measures Program

This section contains suggested procedures to be used by localities to internally test the integrity and accuracy of their PPTRA qualification procedures. It also

includes suggested procedures to improve qualification determinations. It is understood that specific procedures cannot be standardized due to wide variation in data collection and retention methods used throughout the State. However, each locality should ensure that procedures adopted accomplish the objectives outlined.

The overall objectives of the compliance assurance measures program are essentially re-statements of the duties of Commissioners of the Revenue and other assessing officials responsible for PPTRA qualification as specified in the Code of Virginia. Suggested procedural options immediately follow each objective. Depending on record availability, some test procedures may be combined to meet more than one objective. In addition, tests may be conducted on the total population (if feasible) or on a representative sample. These Guidelines also include suggestions for detailed testing. These procedures are focused primarily on testing qualified vehicles for accuracy. From a local perspective, these procedures also can be adapted to test unqualified vehicles to ensure all taxpayers eligible for relief are actually identified.

Objectives

Confirm all qualified vehicles are registered to QUALIFIED OWNERS (natural persons)

1. Nonleased Vehicles

- Ensure qualified vehicle records contain a social security number (SSN) or other indicator of nonbusiness ownership (such as an "I"), and do not contain a federal identification number (FEIN) or other indicator of business ownership, such as a "B").
- Ensure qualified vehicle records contain separately listed first and last names.
- Ensure qualified vehicle records do not include words commonly associated with entities other than natural persons, such as "The," "Inc," "LLC," or "Ltd."
- Ensure qualified vehicle records do not include nonqualifying entities as a joint or second owner.

2. Leased Vehicles

- Ensure qualified vehicles registered to leasing companies are supported by DMV certification, indicating the lessee is responsible for the personal property tax. (Note: Any

exceptions that are justified should be supported by lease agreements.)

Confirm all qualified vehicles are predominantly used for NON-BUSINESS PURPOSES

1. Ensure qualified vehicles do not carry nonpersonal use DMV classification tags, such as “for hire” or “farm.”
2. Utilize internal resources. Cross reference vehicle accounts with business accounts using name, account number or other identification links (e.g., business personal property, machinery and tools, business license, and merchant’s capital).
 - Ensure qualified vehicles are not registered to a business.
 - Where the business is in the name of a natural person, ensure all qualified vehicles are used predominantly for nonbusiness purposes. Supporting documentation must be pertinent to any year in which the vehicle is qualified.

Confirm all qualified vehicles have a registered GROSS WEIGHT NOT MORE THAN 7,500 Pounds.

1. Ensure no vehicle make/models known to have gross weight of 7,501 pounds or greater have been qualified.
2. Ensure documentation is maintained in all cases where determination is based on DMV data. (Note that a weight change may only be proven by having record of the weight change before and after the DMV modification, such as screen prints or monthly DMV reports.)

Confirm all qualified vehicles have been properly VALUED.

1. Ensure that value used to determine PPTRA reimbursement on qualifying vehicles is:
 - A fair market value, using a method prescribed in § 58.1-3503, Code of Virginia.
 - The assessment method is the same method used by the locality as of August 1, 1997.
2. This objective may have already been met through tests of your system for purposes of issuing accurate general assessments of

personal property, and may not need to be done separately simply for purposes of PPTRA.

Confirm actual REIMBURSEMENTS have been properly requested.

1. Confirm all taxes were paid on certified vehicles prior to submission for reimbursement. Coordinate with the Treasurer or other official responsible for tax collection. Compare delinquency reports to PPTRA reimbursements to ensure no vehicle has been reimbursed for any year in which taxes have not been paid.
2. Confirm reimbursement limitations were properly applied.
 - Verify vehicles valued at \$1,000 and less are reimbursed in full (in four equal installments).
 - Verify vehicles valued at \$1,001 to \$20,000 are reimbursed based on applicable annual percentage.
 - Verify vehicles valued at \$20,001 or greater are reimbursed only up to the first \$20,000 and based on applicable annual percentage.
 - Ensure reimbursement is requested based on tax rate in effect July 1, 1997 or August 1, 1997, whichever is greater.

Confirm that all appropriate STAFF are sufficiently EDUCATED in qualification procedures.

1. Ensure qualification procedures are sufficiently documented and readily available to all staff involved in PPTRA procedures.
2. Ensure all staff maintains adequate documentation to substantiate administrative determinations.

Confirm all AVAILABLE external RESOURCES have been UTILIZED.

1. Ensure that an annual certification has been obtained directly from vehicle owners regarding the use and characteristics determinative of relief eligibility, such as through vehicle registrations or license renewals.
2. Ensure all available information from the Department of Motor Vehicles has been utilized, including, but not limited to:
 - Ownership

- Weight
 - Vehicle make/model
 - Vehicle use
3. Ensure all reports prepared by the Virginia Department of Taxation and provided to localities that indicate potential business use of vehicles have been utilized.

Confirm TAXPAYERS have been properly INFORMED of PPTRA limitations prominently and in plain English through each of the following sources:

1. Personal property tax assessments
2. Personal property tax bills
3. Vehicle licensing (pursuant to § 46.2-752, Code of Virginia)
4. Websites, brochures and any other documents available to citizens

RESOLVE ALL EXCEPTIONS noted.

1. Ensure the source of all exceptions is determined.
2. Ensure that where an exception is a result of a procedural or systematic error, versus an isolated case, steps are taken to immediately correct all similarly situated accounts.

REPORT and CORRECT all cases in which relief was erroneously granted for a nonqualifying vehicle.

1. Ensure all corrections have been promptly identified to the State Comptroller and DMV:
2. Ensure a record is maintained of all corrections, including vehicle identification, the amount of the correction and the date on which this correction was reported to the State.

Detail Tests

INTERNAL TESTING (Documentation Test)

1. Select a sample and document the basis for its selection.

2. Test sample. The purpose of the test is to ensure adequate documentation is on file to support the determination to qualify or not qualify a vehicle.

EXTERNAL TESTING (Taxpayer Confirmation)

1. Select a sample and document the basis for its selection.
2. Test Sample.
 - Send inquiry directly to registered owner of vehicle.
 - Request response regarding the following:
 1. Ownership
 2. VIN
 3. Vehicle Make/Model
 4. Gross Weight of Vehicle
 5. Use of vehicle (if 100% nonbusiness, no further inquiry)
 - If owner responds that vehicle is less than 100% nonbusiness use, request:
 1. Description of business use (e.g., employee use for an employer, self-employment)
 2. Total miles
 3. Business miles
 - Request federal income tax schedules (Schedule C, Form 4562, Form 2106; See Appendix A).
 - Request records submitted to employers for mileage reimbursement.

(Note: External testing may be particularly useful, when DMV data or other data not obtained directly from the registered owner was relied upon to determine qualification.)

Sampling

Sampling should be utilized only when it is not feasible or cost-effective to test an entire population. Sampling can also be utilized to conduct detailed tests on a small population such as populations where substantial noncompliance is suspected (“at-risk” populations), with less detailed tests being conducted on populations expected to be substantially compliant. Judgment must be used in determining sample base and sizes. Samples should be of sufficient size to be representative of the population as a whole.

Sampling “AT-RISK” populations, using characteristics analysis:

1. Determine populations where the potential for noncompliance is likely, such as:
 - Vehicle types, such as large pickup trucks, which may have weights of 7,501 or more.
 - Sole proprietorships.
2. Determine a reasonable sample size, as well as priority for testing by determining the potential error in the overall population caused by the “at-risk” population identified. The more substantial the potential error, the larger the sample size should be, as per the following example:

Assume that the entire population of qualified vehicles is 100,000 records. You have 2,000 vehicles that are owned by sole proprietors in your locality, and there are 1,000 pickup trucks potentially (incorrectly) on file with weights of 7,500 or less. The potential error in the entire population due to these circumstances can be evaluated by dividing the total population by the at-risk population.

In this case, sole proprietorships account for potentially 2% ($2,000 / 100,000$) in error. Overweight vehicles account for 1% ($1,000 / 100,000$).

Based on this analysis, the sample size for sole proprietorships should be larger than the sample size for overweight vehicles. In addition, sole proprietorships should be tested first.

(Note: The Department is in the process of reviewing its resources to assist localities in targeting “at-risk” populations.)

Sampling populations NOT “AT-RISK,” using analytical process:

1. Select sample using a method that will result in a fair representation of the total population.
2. Recommended sample size: Up to five percent of the total population.

Efficiency and Effectiveness

1. Prior to conducting any audit, have written documentation for:

- All established qualification procedures.
- All established internal audit procedures.

Use these documents as a foundation, and continually strive to improve the processes with experience.

2. Audit only one year at a time. Ensure that all documents utilized in testing or verification processes pertain specifically to the year tested. Testing multiple years may create confusion, particularly with respect to vehicles that may have a change in qualification status.
3. Know your computer systems.
 - Utilize your computer systems to generate reports of exceptions to the objectives stated.
 1. Enlist the assistance of other localities using similar software.
 2. Enlist the assistance of system support staff.
 - Utilize computer systems to cross-reference or link your business tax records to your motor vehicle records.

Computer-aided testing can facilitate auditing a more substantial part of (or the entire) qualified motor vehicle population.

4. Enlist the support of your Treasurer or other collecting agent. Combine resources.
5. Utilize ALL components of your office. Adapt procedures not traditionally associated with motor vehicle compliance to meet PPTRA requirements, such as:

- Use business registration processes as an opportunity to inquire regarding business use of vehicles.
- Review detailed asset listings submitted in support of business tangible and machinery and tools returns. In some cases, you may find that the business percentage of use is also indicated on these schedules.
- Utilize state income tax preparation as an opportunity to educate taxpayers on PPTRA. Educate preparers to be aware of vehicle expense deductions contained on federal schedules. Have preparers inquire and record business use percentage and identifying vehicle information.
- Train field agents and inspectors to be mindful of vehicles used in businesses. Record the plate number of any vehicle displaying advertisement for local businesses. Follow up with an inquiry to the vehicle owner as to the percentage of business use for the observed vehicle.
- Incorporate vehicle verification as a standard component of all business-related audits.

Required Local Reporting to State Agencies

The Commissioner of the Revenue or other official is required to identify to the State Comptroller and DMV each case in which relief was granted to a non-qualifying vehicle owner.

The State Comptroller is required to make appropriate adjustments to future PPTRA reimbursements to the locality with respect to the overpayment and shall report annually to the Department of Taxation regarding the program instituted and the results obtained. (Note: The reporting requirement related to the State Comptroller is currently under review for legislative changes for the 2003 General Assembly Session.)

The Commissioner of the Revenue or other official shall report annually to the Department of Taxation no later than July 15 the results of the Compliance Program for the preceding fiscal year. The report shall include an overview of the local compliance measures, the number of nonqualifying vehicles receiving tax relief identified, and the total dollar amount of improper tax relief billed to taxpayers. (See Appendix C Sample Audit Report)

COMPLIANCE MEASURES – DEPARTMENT OF TAXATION AUDITS

The Department of Taxation is required to audit the personal property tax records of localities periodically for the purposes of ascertaining compliance with the provisions of the PPTRA Compliance Program and other provisions of § 58.1, Chapter 35.1, Code of Virginia.

In the event the Department of Taxation determines that PPTRA relief has been provided to a specific nonqualifying vehicle, the Department will notify the State Comptroller, who will make appropriate adjustments to future PPTRA reimbursements to the locality with respect to the overpayment. The Commissioner of the Revenue or other local assessing official will revise the personal property tax book with respect to the qualifying status of such vehicle. The Treasurer or other official charged with the collection of the personal property taxes will issue a supplemental tax bill to the taxpayer in accordance with applicable law and submit a credit record to DMV. (Note: The reporting requirement related to the State Comptroller is currently under review for legislative changes for the 2003 General Assembly Session.)

Statistical sampling techniques that do not identify each specific nonqualifying vehicle for which PPTRA relief nevertheless was granted may be used by the Department in the preparation of reports of overall PPTRA compliance rates. Statistical sampling techniques will not be used as the basis for ratably reducing PPTRA reimbursements or making setoffs against future PPTRA reimbursements to a locality **EXCEPT** in a locality where an audit by the Department determines it is substantially noncompliant as defined by standards of compliance established annually by the Tax Commissioner

“Substantially noncompliant”

A locality shall be deemed “substantially noncompliant” if they have **not**:

1. Provided for informing motor vehicle owners, prominently and in plain English, at the time of local motor vehicle licensing pursuant to § 46.2-752, Code of Virginia, personal property tax assessments and personal property tax billing, of the limitations upon qualification for relief under PPTRA.

Or

2. Systematically obtained annual certification by vehicle owners of vehicle use and characteristics that are determinative of eligibility for relief under PPTRA. The statistical error rate resulting from the audit

by the Department of Taxation should not exceed 10% of the records audited for this requirement.

Or

3. Implemented compliance assurance measures that ensure PPTRA relief is not provided to owners of vehicles that are not qualifying vehicles under the Act.

Administrative Appeals

Any locality deemed to be substantially noncompliant may appeal the results of the audit by the Department of Taxation to the Tax Commissioner within 10 business days of receiving the Department's written report. The Tax Commissioner will issue a determination to the locality within 30 days of receipt of the appeal.

Department of Taxation Audit Procedures

The Department of Taxation will use current audit practices to determine PPTRA compliance. The audits will be conducted efficiently with minimal burden to the locality. This can be accomplished by using appropriate sampling techniques and by use of electronic data manipulation. Procedures that will be used by the Department of Taxation are:

1. Contact the locality to schedule the audit.
2. Conduct a pre-audit conference with the locality to discuss the scope of the audit, how records are maintained (paper files vs. electronic files) and to determine sampling procedures.
3. Review all data to select the sample to be tested.
4. Sample selected will be supplied to the locality to prepare records for review.
5. Review sample records for compliance using the following items for testing:
 - Sample of qualified vehicles
 - DMV Ownership indicator (Individual/Business)
 - DMV Use indicator
 - Vehicle weight according to DMV
 - License Plate Type
 - Method of assessment and tax rate for current year versus method and tax rate used as of August 1, 1997

- Information on tax bill
 - Payment of tax bill
 - Recreational Vehicles
 - Personal Property Returns
 - Decal application
 - Additional information obtained by the locality
 - Documented local audit program
6. Exceptions will be noted and compiled by the Department of Taxation.
 7. Exceptions will be reviewed with locality and final list agreed upon.
 8. Compliance determination will be computed based on the error rate from the sample.
 9. The Department of Taxation prepares final reports.

PROCEDURES FOR STATE COMPTROLLER WITHHOLDING FUTURE PPTRA PAYMENTS TO LOCALITIES RESULTING FROM SUBSTANTIALLY NONCOMPLIANT AUDIT FINDINGS

In the event that the State Comptroller is notified by the Department of Taxation that a specific jurisdiction has been found to be substantially noncompliant with the laws and procedures governing PPTRA, the State Comptroller's office will take the following action:

Reduce or completely withhold all future PPTRA payments to such jurisdiction until the Commonwealth recovers identified overpayments.

Communicate in writing to the Department of Taxation, the Department of Motor Vehicles, and to the affected jurisdictions all payments withheld or reduced for reconciliation purposes.

APPENDIX A

Federal Forms

This appendix includes a brief overview of pertinent information contained in the Federal schedules and forms. This will assist you in better understanding information provided by the Department of Taxation, as well as suggestions for the type of documentation you may request from a taxpayer when reviewing specific accounts. Additional information is available in the IRS instructions for each of these items. These forms and instructions may be downloaded from the following IRS website: <http://www.irs.gov/>

Schedule C – Profit or Loss from Business

This form is used to report income and expenses from a business operated as a sole proprietorship or wages and expenses incurred as a statutory employee.

Part II, Line 10 – Car and truck expenses

This line is used when:

- (a) Utilizing the standard mileage deduction
- (b) Using a leased vehicle
- (c) Using a fully depreciated vehicle
- (d) Not required to file form 4562

This line by itself only tells you that a vehicle is being used in a business. It does not identify the vehicle, nor does it tell you whether or not the use is greater than 50%. See also Schedule C, Part IV.

Part II, Line 13 – Depreciation and Section 179 expense deduction

This line is used to claim a depreciation expense for property used in a trade or business. Note that based on this line alone, you cannot determine whether or not this property is a vehicle. When taking this deduction, Form 4562 may (or may not) be required.

Part IV – Information on Your Vehicle

This section should be completed by all sole proprietors (and statutory employees) claiming an expense on Line 10. On line 44, a taxpayer is supposed to identify business miles, commuting miles and other miles. The three figures added together are the total miles driven for the year.

By comparing business miles to total miles, you can determine the business use percentage. If this percentage is more than 50%, you should contact the taxpayer for identification of the vehicle.

Note that the information provided in this schedule should pertain to only one vehicle. A separate Part IV should be completed for each vehicle if multiple vehicles are used in the business.

Schedule C EZ - Net Profit From a Business

The Schedule C – EZ does not have a line comparable to Line 10 or Line 13 on the Schedule C. Note, however that Part III of this schedule requires the same information as Part IV of the Schedule C (discussed previously). Mileage information is contained on line 5.

Schedule F – Profit or Loss from Farming

This form is used to report farm income and expenses.

Part II, Line 12 – Car and Truck Expenses

This line is used to report either the standard mileage deduction or actual expenses for vehicles used in farming. In conjunction with this line, Part V of the Form 4562 must also be completed.

Part II, Line 16 – Depreciation and Section 179 expense deduction not claimed elsewhere.

This line is used to claim a depreciation expense for property used in farming. Note that based on this line alone, you cannot determine whether or not this property is a vehicle. When taking this deduction, Form 4562 may (or may not) be required.

Form 2106 – Employee Business Expenses

Individuals claiming employee business expenses on Schedule A (Itemized Deduction) generally file this form³. Part II of the 2106 pertains specifically to vehicle usage. Section A, Line 14 of this section specifically indicates “percentage of business use.”

³ In addition to the Schedule A, expenses from Form 2106 may also be included on Form 1040, Line 32 for certain fee-basis state or local government officials (identified as “FBO”) or qualified performing artists (identified as “QPA”). If the expenses are related to impairment-related work expenses, they may appear on line 27 instead of line 20 of the Schedule A. See IRS instructions for Form 2106 or the 2106 EZ for additional information.

Sections B, C and D also pertain to vehicles used in trade and businesses, and may provide you some additional information to identify the actual vehicle used (ex: Section D, Line 30 provides the cost basis).

Form 2106 EZ – Unreimbursed Employee Business Expenses

This form is similar to Form 2106; it is used to claim only unreimbursed expenses. Part II of this form contains information very similar to that of Part IV of the Schedule C. Mileage information should be reported on line 8.

Form 4562 – Depreciation and Amortization

This form is used to deduct costs associated with the acquisition of capital assets. Part V of this form pertains to “listed property.” Among other items, “listed property” includes passenger automobiles weighing 6,000 pounds or less and any other property used for transportation if the nature of the property lends itself to personal use, such as motorcycles, pick-up trucks, etc.

Part V, Section A segregates property used more than 50% in a qualified business on Line 26. Section B provides actual mileage data. Section C isolates vehicles owned by businesses, and provided to employees for use.

Note that vehicles in excess of 6,000 may be reported in Part I, II or III of the form.

If you do not have sufficient information to make a determination based solely on the Form 4562, request from the taxpayer the detailed depreciation schedule used to support the form.

Form 4797 – Sale of Business Assets

This form is filed when an asset, for which a business use deduction has been claimed, is sold. If you did not discover business use of the vehicle through a review of any of the aforementioned forms, you may still be able to discover (prior) business use through review of this form. Note, this form is only required if there has been some sort of business use of the asset at some point in its life.

CAUTION: Most of these forms require a “date placed in service” which may or may not be helpful in identifying the vehicle used. Note however, that in most cases, this data pertains to the date the vehicle was put into business use, which is not necessarily the same as the date of purchase.

APPENDIX B

2002 Acts of Assembly

Item 285 G.1. of Chapter 899 (the Appropriations Act)

G.1. The Department, with the assistance of the Personal Property Tax Relief Act Compliance Task Force, shall develop and commence to implement, not later than January 1, 2003, a comprehensive Personal Property Tax Relief Act Compliance Program (the Compliance Program) to enhance taxpayer knowledge of and compliance with the provisions of Chapter 35.1, Title 58.1, Code of Virginia, the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act), and to establish cost-effective compliance verification and audit procedures to ensure that relief under PPTRA is provided only to qualifying vehicles as defined in the Act. The Department of Motor Vehicles (DMV), the Department of Accounts, local commissioners of the revenue and other local assessing officials, city, county and town treasurers and directors of finance in localities that do not have an elected treasurer shall cooperate with the Department and shall, upon the request of the Department, provide all information and assistance necessary to implement the Compliance Program.

10. The Compliance Program shall include, without limitation, the following components:

- a. Provisions for informing motor vehicle owners, prominently and in plain English, at the time of vehicle titling, renewal registration, local motor vehicle licensing pursuant to § 46.2-752, Code of Virginia, personal property tax assessment and personal property tax billing, of the limitations upon qualification for relief under PPTRA.
- b. Development of a process for periodic, informed certification by vehicle owners of vehicle use and characteristics that are determinative of eligibility for relief under PPTRA, utilizing to the maximum extent possible existing procedures and communications between governmental entities and affected taxpayers.
- c. Compliance assurance measures that ensure PPTRA relief is not provided to owners of vehicles that are not qualifying vehicles under the Act.

11. As part of the Compliance Program, DMV shall require, as a part of each application for initial and renewal vehicle registration for vehicles potentially eligible for PPTRA relief on and after January 1, 2003, a certification by the vehicle owner as to its use for business purposes. Certification information collected by DMV shall be made available to commissioners and other local

assessing officials for use in discharging their responsibilities for qualifying vehicles for relief under PPTRA.

12. As part of the Compliance Program, for any vehicle with a value in excess of \$1,000, commissioners and other local assessing officials responsible for determining vehicle qualification for PPTRA relief, and treasurers and other local officials responsible for local vehicle registration and for the issuance of personal property tax bills to vehicle owners, shall implement provisions for certification by the vehicle owner as to vehicle use for business purposes:

13. In jurisdictions where an affirmative personal property tax return is required of the taxpayer, certification shall be obtained at the time of filing a return of personal property. In cases where this method fails to obtain the requisite taxpayer certification, then at the time of any one of the following:

14. Application for, or issuance of evidence (such as a decal or local license plate) of, initial or renewal local vehicle licensing pursuant to § 46.2-752, Code of Virginia.

2) Payment of personal property tax bill, where a bill is required to be issued pursuant to applicable law and where payment can be construed as a certification of vehicle usage.

3) Any other communication with the vehicle owner requiring an affirmative response or responsive action on the part of the owner.

b. In jurisdictions where a File By Exception method is used for personal property tax returns, at the time of the following:

15. The File By Exception process in which citizens shall be required to notify the locality of any changes in vehicle usage on an exception basis, and either

2) Payment of personal property tax bill, where a bill is required to be issued pursuant to applicable law and where payment can be construed as a certification of vehicle usage, or

3) Application for, or issuance of evidence (such as a decal or local license plate) of, initial or renewal local vehicle licensing pursuant to § 46.2-752, Code of Virginia.

16. Recertification required by paragraph G.4. of this Item shall be obtained on an annual basis.

17. The Department shall periodically audit the personal property tax records of localities for the purpose of ascertaining compliance with the provisions of this paragraph and of other provisions of Chapter 35.1, Code of Virginia. In the

event the Department determines that PPTRA relief has been provided to a specific nonqualifying vehicle, the Department shall notify the State Comptroller, who shall make appropriate adjustments to future PPTRA reimbursements to the locality with respect to the overpayment; the commissioner or other local assessing official, who shall revise the personal property tax book with respect to the qualifying status of such vehicle; and the treasurer or other official charged with the collection of the personal property taxes, who shall issue a supplemental tax bill in accordance with applicable law. Statistical sampling techniques that do not identify specific nonqualifying vehicles as to which PPTRA relief nevertheless was granted may be used by the Department in the preparation of reports of overall compliance rates with respect to PPTRA, but shall not, in and of themselves, be used as the basis for ratably reducing PPTRA reimbursements or making setoffs against future PPTRA reimbursements to a locality except in a locality where an audit by the Department determines it is substantially noncompliant as defined by standards of compliance established annually by the Tax Commissioner.

18. Each commissioner or other local assessing official responsible for making determinations regarding qualification of vehicles for PPTRA, with the guidance and assistance of the Department and the PPTRA Compliance Task Force, shall develop and implement, not later than January 1, 2003, a program of compliance assurance measures that are designed to identify and to audit likely cases of PPTRA relief being obtained for nonqualifying vehicles. Each such commissioner or other official shall promptly identify to the State Comptroller each case in which relief was granted to a nonqualifying vehicle owner who shall make appropriate adjustments to future PPTRA reimbursements to the locality with respect to the overpayment and shall report annually to the Department regarding the program instituted and the results obtained. In developing local compliance assurance measures, the commissioner or other responsible local official shall utilize locally available information, such as that relating to business licensing, activities and taxation, that will tend to identify potential recipients of PPTRA relief with respect to nonqualifying vehicles in a cost-effective manner.
19. In order to assist commissioners and other responsible local officials in identifying potential recipients of PPTRA relief with respect to nonqualifying vehicles, the Department shall make available to commissioners and such officials information in its possession or otherwise available to it that will tend to identify taxpayers claiming exclusions or deductions relating to the use of vehicles for business purposes. Nothing in § 58.1-3, Code of Virginia, shall be construed to prohibit the transfer to commissioners and other local officials of such information for the limited purposes described in this item.
20. The Department shall report to the Chairmen of the Senate Finance and House Appropriations Committees by November 1 of each year on total

overpayments by the Commonwealth that have been identified for the prior calendar year.

21. The Tax Commissioner is authorized to promulgate administrative guidelines to implement the PPTRA Compliance Program. Such guidelines shall not be subject to the provisions of the Administrative Process Act.

APPENDIX C
SAMPLE AUDIT REPORT

Mr. Kenneth W. Thorson
Tax Commissioner
Virginia Department of Taxation
P.O. Box 2475
Richmond, VA 23218

Dear Commissioner Thorson:

The City/County of _____ has conducted audits in accordance with The Personal Property Tax Relief Compliance Program. Individual taxpayer records have been reviewed and examined to determine correct eligibility for Personal Property Tax Relief based on information provided by the Department of Taxation, Division of Motor Vehicles and information obtained locally.

The audits are designed to identify vehicles that were or would have been erroneously qualified for Personal Property Tax Relief and the amount of tax on these vehicles subject to reimbursement by the Commonwealth of Virginia. The audit results are as follows:

Reporting Period: _____ (e.g. 7/1/2003-6/30/2004)

Locality Name	Ineligible Vehicles Identified	Tax Relief Amount
Sample County	20	\$4,350

I certify that this information is true and correct to the best of my knowledge and that the audit results have been documented and are available for review by the Department of Taxation.

Commissioner of the Revenue
or other assessing officer

Date